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Attorney for Plaintiffs LOWELL and GINA SMITH,
for themselves and persons similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOWELL and GINA SMITH, individually, and on behalf of others similarly situated,)	Case No. 3:18-cv-02350-WHA
)	
Plaintiffs,)	NOTICE OF RELATED CASE AND
)	ADMINISTRATIVE MOTION TO
vs.)	CONSIDER WHETHER CASES SHOULD
)	BE RELATED PURSUANT TO CIVIL L.R.
FLAGSTAR BANK, FSB, a federal savings)	3-12
bank, and DOES 1-100, inclusive,)	
)	
Defendant.)	

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that *Smith v. Flagstar Bank*, FSB, 4:18-cv-05131-KAW
(*Flagstar II*) was filed on August 22, 2018 and is related to *Smith v. Flagstar Bank*, FSB, 3:18-
cv-02350-WHA (*Flagstar I*), which was filed on April 18, 2018 and dismissed on August 21,
2018 without prejudice.

Pursuant to Civil Local Rules 3-12(b) and 7-11, Plaintiffs Lowell and Gina Smith submit
this Administrative Motion to Consider Whether Cases Should Be Related.

I. APPLICABLE STANDARD

Under Civil Local Rule 3-12(a), an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction, or event; and (2) it appears likely that there will be unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted by a different judge.”

“Whenever a party knows or learns that an action, filed in ... this district is ... related to an action which is or was pending in this District as defined in Civil L.R. 3-12(a), the party must promptly file in the lowest-numbered case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.” Civil Local Rule 3-12(b).

Under Civil Local Rule 3-3(c), “[i]f any civil action or claim of a civil action is dismissed and is subsequently refiled, the refiling party must file a Motion to Consider Whether Cases Should be Related pursuant to Civil L.R. 3-12. Upon a determination by a Judge that an action or claim pending before him or her is covered by this Local Rule, that Judge may transfer the refiled action to the Judge originally assigned to the action which had been dismissed.”

II. RELATIONSHIP OF THE ACTIONS

Flagstar I and *Flagstar II* are related because they involve the same parties, property, transactions, and events; and there will be unduly burdensome duplication of labor and expense and the likelihood of conflicting results if the later-filed case is conducted by a different judge. Judge Alsup dismissed *Flagstar I* for failure to plead satisfaction of a notice-and-cure provision in the Deed of Trust. 18-cv-02350-WHA, Dkt. No. 34. Plaintiffs have satisfied the notice-and-cure provision and file *Flagstar II* in order to commence a new judicial action on that basis.

DATE: August 23, 2018

HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Thomas E. Loeser

THOMAS E. LOESER (SBN 202724)

Attorneys for Plaintiffs
LOWELL and GINA SMITH

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record for each party through the Court's electronic filing service on August 23, 2018, which will send notification of such filing to the e-mail addresses registered.

/s/ Thomas E. Loeser
Thomas E. Loeser